

ESTTA Tracking number: **ESTTA237323**

Filing date: **09/17/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	The Strategic Coach Inc.
Granted to Date of previous extension	09/17/2008
Address	33 Fraser Avenue Suite 201 Toronto, Ontario, M6K 3J9 CANADA
Attorney information	R. Glenn Schroeder, Esq. Hoffmann & Baron, LLP 6900 Jericho Turnpike Syosset, NY 11791 UNITED STATES rgsdocket@hoffmannbaron.com Phone: 516-822-3550

Applicant Information

Application No	77359908	Publication date	05/20/2008
Opposition Filing Date	09/17/2008	Opposition Period Ends	09/17/2008
Applicant	Pulse Point, Inc. 9425 Turnberry Drive Potomac, MD 20854 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: Business management consultancy and advisory services
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1629389	Application Date	10/12/1989
Registration Date	12/25/1990	Foreign Priority Date	06/12/1989
Word Mark	THE STRATEGIC COACH		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 035. First use: BUSINESS MANAGEMENT AND CONSULTING SERVICES

U.S. Registration No.	1778231	Application Date	02/22/1991
Registration Date	06/22/1993	Foreign Priority Date	NONE
Word Mark	THE STRATEGIC COACH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1987/10/00 First Use In Commerce: 1992/09/00 prerecorded audio and video tapes featuring personal and business development training Class 016. First use: First Use: 1987/10/00 First Use In Commerce: 1993/02/00 personal planning diaries; and training manuals, books and newsletters in the field of personal and business development Class 041. First use: First Use: 1987/10/00 First Use In Commerce: 1992/09/00 educational services; namely, conducting workshops and seminars in the field of personal and business development and business management		

U.S. Registration No.	2138349	Application Date	08/16/1996
Registration Date	02/24/1998	Foreign Priority Date	NONE
Word Mark	THE STRATEGIC COACH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1987/10/00 First Use In Commerce: 1992/09/00 pre-recorded audio and video tapes featuring personal and business development training Class 016. First use: First Use: 1987/10/00 First Use In Commerce: 1992/09/00 manuals, personal planning diaries, books and newsletters in the field of personal and business development Class 041. First use: First Use: 1987/10/00 First Use In Commerce: 1992/09/00 arranging and conducting educational workshops and seminars, all relating to personal and business development and management		

U.S. Application No.	77333181	Application Date	11/19/2007
Registration Date	NONE	Foreign Priority Date	09/28/2007
Word Mark	STRATEGIC COACH		
Design Mark			
Description of Mark	The mark consists of concentric generally circular loops surrounding literal element STRATEGIC COACH.		
Goods/Services	Class 009. First use: Electronic publications, namely books, manuals and instructional guides in the		

	<p>field of professional and personal development recorded on DVDs and compact discs; educational computer software featuring instruction in professional and personal development for use with individual self-study and during classroom instruction in the field of professional and personal development</p> <p>Class 016. First use:</p> <p>Printed publications, namely books, manuals and workshop materials in the field of professional and personal development</p> <p>Class 035. First use:</p> <p>Business management</p> <p>Class 041. First use:</p> <p>Educational services, namely consulting, conducting seminars, workshops and private individual self-study instructional courses in the field of professional and personal development</p>
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Attachments	<p>73830909#TMSN.gif (1 page)(bytes)</p> <p>74141197#TMSN.gif (1 page)(bytes)</p> <p>77333181#TMSN.jpeg (1 page)(bytes)</p> <p>Notice_of_Opposition.pdf (5 pages)(116805 bytes)</p>
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/r. glenn schroeder/
Name	R. Glenn Schroeder, Esq.
Date	09/17/2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application Serial No. 77/359,908

Filed: December 27, 2007

Published for Opposition on May 20, 2008

Trademark: INTEGRATED STRATEGIC COACHING

THE STRATEGIC COACH INC.

Opposer,

v.

PULSE POINT, INC.

Applicant.

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: **Opposition No.**
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Commissioner for Trademarks
P.O. Box 1451
Alexandria , VA 22313-1451

Certificate of EFS-Web Transmission

I hereby certify that this correspondence is being transmitted to the U.S. Patent and Trademark Office via the Office's electronic filing system on **September 17, 2008**.

Melinda A. Kerrigan
(Printed Name)

Signature: /melinda a. kerrigan/

NOTICE OF OPPOSITION

The Strategic Coach Inc. ("Opposer"), a Canadian company, with offices at 33 Fraser Avenue, Suite 201, Toronto, Ontario, M6K 3J9, Canada, believes that it will be damaged by registration of the mark shown in Serial No. 77/359,908 to Pulse Point, Inc. ("Applicant"), which application was published for opposition on May 20, 2008, and hereby opposes, through its attorneys, the registration of said mark in International Class 35.

As grounds for opposition it is alleged that:

1. Opposer is a Canadian company, with offices at 33 Fraser Avenue, Suite 201, Toronto, Ontario, M6K 3J9, Canada;

2. Opposer distributes and sells materials relating to professional and personal development including tapes, CDs, DVDs, manuals, diaries, books, newsletters and training manuals. Opposer also provides business management and consulting services, as well as educational services which include the conducting of workshops and seminars in the field of personal and business development and business management.

3. Opposer utilizes the word marks THE STRATEGIC COACH and STRATEGIC COACH as trademarks indicating the source of origin for its products/services (hereinafter the "Strategic Coach Trademarks").

4. Since prior to the filing date of the above-identified application, Opposer has been using the Strategic Coach Trademarks in interstate commerce in connection with the goods/services described in Paragraph 2.

5. Opposer is the owner of United States Registration No. 1,629,389 for the mark THE STRATEGIC COACH and design as used in connection with business management and consulting services in International Class 35; United States Registration No. 1,778,231 for the mark THE STRATEGIC COACH and design as used in connection with prerecorded audio and video tapes featuring personal and business development training in International Class 9, personal planning diaries; and training manuals, books and newsletters in the field of personal and business development in International Class 16; and educational services; namely, conducting workshops and seminars in the field of personal and business development and business management in International Class 41; and United States Registration No. 2,138,349 for the mark THE STRATEGIC COACH as used in connection with pre-recorded audio and video tapes featuring personal and business development training in International Class 9; manuals, personal planning diaries, books and newsletters in the field of personal and business development in International Class 16, and arranging and conducting educational workshops and seminars, all relating to personal and business development and management in International Class 41.

6. The above-referenced registrations are valid and in full force and effect. The Principal Register registrations are *prima facie* evidence of the validity of the registrations, of Opposer's ownership of the marks and of its exclusive right to use the marks in commerce.

Moreover, the registrations are constructive notice to Applicant and all others of Opposer's claim of ownership of the marks. Opposer uses the symbol ® in association with its marks.

7. Opposer is also the owner of U.S. Application Serial No. 77/333,181 for the mark STRATEGIC COACH and design as used in connection with electronic publications, namely books, manuals and instructional guides in the field of professional and personal development recorded on DVDs and compact discs; educational computer software featuring instruction in professional and personal development for use with individual self-study and during classroom instruction in the field of professional and personal development in International Class 9; printed publications, namely books, manuals and workshop materials in the field of professional and personal development in International Class 16; business management in International Class 35; and educational services, namely consulting, conducting seminars, workshops and private individual self-study instructional courses in the field of educational and personal development in International Class 41. The mark was filed on November 19, 2007, and includes a foreign priority claim of September 28, 2007. Both the U.S. filing date and the Canadian priority date are earlier than the date of Applicant's application. The filing of Opposer's application for STRATEGIC COACH and design thereby provides constructive notice to Applicant and all others of Opposer's claim of ownership of the mark.

8. Opposer has expended substantial amounts of money, time and effort in advertising, promoting and popularizing the Strategic Coach Trademarks so that the public has come to associate and attribute usage of such marks with Opposer.

9. The services identified in Applicant's application are identical and/or substantially related to the goods/services marketed by Opposer (mentioned hereinabove in paragraph 2) under the Strategic Coach Trademarks, to the goods/services listed in Opposer's registrations identified hereinabove in paragraph 5, and to the goods/services listed in Opposer's application identified hereinabove in Paragraph 7, all of such goods/services being likely to travel through similar channels of trade.

10. Applicant's mark is confusingly similar to Opposer's marks whereby use of Applicant's mark on the services recited in Applicant's application will create a likelihood of confusion, mistake or deception among the trade and the purchasing public.

11. The registration of Applicant's mark in connection with the services specified in Applicant's application would be in direct conflict with the proper function of a trademark; that is, as a designation of the sole and exclusive origin of goods or services, considering Opposer's prior use of and registration of its marks.

12. Opposer, as the owner of valid federal trademark registrations and application, and as the prior user of such marks, will be damaged if registration of Applicant's mark is granted.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained, that the above-identified application be rejected and that the registration of the mark shown in Application Serial No. 77/359,908 be refused.

Respectfully submitted,

Dated: September 17, 2008

By: /r. glenn schroeder/
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Attorney for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Notice of Opposition** has been served via first-class mail this 17th day of September, 2008 upon the following:

Robert S. McDonough, Esq.
Young, Goldman & Van Beek, P.C.
510 King Street, Suite 416
Alexandria, Virginia 22314-3132

/r. glenn schroeder/
R. Glenn Schroeder